

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
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To: The Commission

COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of over 50 of the nation's largest central city school districts, requests the consideration of the following comments regarding the Commission's January 25, 2002 Notice of Proposed Rule Making on: (1) changes to improve the efficiency of E-Rate operations; (2) fair and equitable distribution of benefits; and (3) improved program oversight (FCC 02-8).

COMMENTS

The Council of the Great City Schools, the coalition of 58 of the nation's largest central city school districts, is pleased to submit comments to the Commission's January 25, 2002 Notice of Proposed Rule Making (Notice). The Council applauds the effort and goals of the Commission in releasing this Notice and striving to improve and streamline the E-Rate program, reduce mistreatment of the program's support, and ensure the fair distribution of intended benefits. The E-Rate program has no greater advocate than the large city school systems that enroll the highest number of disadvantaged children, employ the largest number of teachers, and occupy the greatest number of school buildings. Specifically, the Council of the Great City Schools represents approximately 30% of the nation's Latino students, 35% of the nation's African American students, and 25% of the nation's children living in poverty. The value of the E-Rate is immeasurable to these students and the inner-city; prior to the E-Rate, shallow resources and a historically deep digital divide left urban school districts with no chance to provide the technology that has enhanced teaching and learning elsewhere. In the spirit of the FCC's intention to improve this important program, we offer the following comments in response to the Notice.

APPLICATION PROCESS

Pre-approved products and services

The proposal that E-Rate applicants must choose from a list of pre-approved products and services is not preferred, and will not necessarily help the program make the improvements sought by the FCC. The Council agrees that the current system could be made more efficient, but providing such a list will place a burden on the Administrator to keep the list up-to-date, and the current landscape of emerging technologies and service providers may make such a task impossible. Schools and libraries must be allowed to take advantage of new and applicable technology, as well as improved services, as soon as they are available, and should not have to delay implementation or pass on the opportunity because such an item has yet to appear on the official list. Providing a narrow, pre-approved list not only limits the ability of applicants to capitalize on opportunities, but also contradicts the underlying, competitive nature of the E-Rate funding process. If all service providers use the same list of eligible items to assist schools and libraries, their ambition to develop creative technology solutions with efficient and cost-effective service may be greatly reduced.

A pre-approved list may also prove unworkable for applicants in certain geographic areas if they are unable to locate a specific, allowable product or service. A similar problem may arise if an applicant includes an approved product in its original application, but that specific item is no longer available once the funding commitment is made, often more than a year after the original application was submitted. The result of such a rule change is especially unattractive since the situations described above are commonplace for applicants in isolated areas and those with the highest levels of poverty – two of the principal beneficiaries of the program.

A fair and efficient solution may be constructed from merging the current system with components of the proposed change. An applicant will continue to apply with a generic list of eligible items, but can query specific items in an up-to-date, but not definitive, database of approved products and services. Such a list shall be kept current, but an applicant would not need to rely solely on the products included. Applicants will be able to identify specific items that are approved, as well as the types of items that may be approved, but are not restricted to using the particular products listed.

Wide Area Networks, wireless services, and voice mail

- **Wide Area Networks**

The Council is equally concerned with the practice of leasing Wide Area Networks (WANs) as raised in the Notice, particularly if such a loophole is used in order to receive Priority One reimbursements that divert funds from high poverty applicants under Priority Two. We agree with the Commission that one way to deal with this issue is to increase the number of years over which the payment can be amortized, and would support spreading the term of Priority One reimbursement to at least five years.

The Council also supports the Commission's review of their stance on leasing WANs, and whether or not such a position has caused a drain on program resources. A change in

the current policy should only be made after serious review, and if it has been determined that such a change would provide a more equitable and fair distribution of universal service benefits to eligible applicants. The decision to change from the current policy should be based on whether the change would create a level playing field that allows eligible applicants to access reimbursements for Internal Connections.

- **Wireless services**

The use of wireless service is now commonplace, and allowing their eligibility gives flexibility to applicants in finding the most suitable technology for their particular needs. The goal of the E-Rate is to provide universal service support to schools and libraries with modern technology, and broadening eligibility to include wireless services is consistent with that purpose and the statute.

- **Voice Mail**

The Council supports the inclusion of voice mail as an eligible service, and notes that it serves similar functions as email, which is currently eligible. Also, providers often bundle voice mail with telephone service, and separating the two rarely provides significant, if any, cost savings. Finally, as referenced in the Notice, the role that voice mail plays in improving communications is an important example of using technology to enhance education, and should be made eligible.

Review of Requests Including Eligible and Non-Eligible Services

The Council appreciates the administrative need for the current 30% rule and feels that it is a reasonable measure. However, in addition to stretched resources, large urban school districts have the most complex E-Rate applications, and make good use of any funding it is eligible to receive to improve the education services for its students. Therefore, the Council feels strongly that the current standard must not be reduced, and that the Administrator not be allowed to reject any application in its entirety unless it finds that at least 30% of the application is for ineligible services.

Compliance with the Americans with Disabilities Act (ADA)

Schools, school districts, and public libraries are already required by law to comply with ADA, and requiring certification under the E-Rate is not only an unwarranted expansion of the program, but a duplicative requirement. Requiring certification of ADA compliance will not improve the program operation, but merely increase the unnecessary paperwork already associated with the E-Rate.

POST COMMITMENT PROGRAM ADMINISTRATION

Choice of Payment Method

The Council favors the proposed change in the Notice, and supports the explicit choice of payment methods for applicants. Under the current system, large urban schools are often forced to provide up-front costs in order to receive services, and have little choice but to expend the capital and wait often more than a year for reimbursement from the SLD. This puts large school systems at a distinct disadvantage in getting projects completed, as

significant discount savings from one vendor could be used in other areas of the district technology budget, and often are used to pay for other non-discount technology costs. A flexible system and cooperative agreements between applicants and service providers will lead to more timely payments and services, and less adjudication for the Administrator.

The Council supports the proposal in the Notice that would require service providers to remit payments due to the applicants within the specified time limit, or face fines and other applicable penalties. We feel that a service provider that fails to remit payment should not only be held responsible, but must also be identified as such to future applicants. Service providers that repeatedly fail to properly reimburse applicants must also face certain prohibitions on participation in the E-Rate program. However, the Council does not feel that it is necessary to prolong the amount of time (to 20 days) that a service provider is allowed to withhold payment to the billed entity, and the current limit of 10 days is the established standard that should be codified and enforced.

Equipment Transferability

The Council supports the Notice's proposal to allow schools and libraries to upgrade equipment as technology advancements are made; such a practice lies at the heart of the notion of universal service. A school or library must also make use of the technology for which it has received discounts, however, and the Commission should establish a specific time frame such as three years (based on industry standards) for the reasonable use of such equipment. A school that wishes to upgrade prior to the three year expiration should be allowed to do so if it has transferred its equipment to a school with a similar or higher poverty level, and not only if it trades in the equipment to the service provider for credit.

The Commission has proposed denying internal connections assistance to applicants that have previously received internal connections reimbursements. The Council supported a change of this nature in the Commission's NPRM in 2001, and would continue to support such a modification of program rules if implemented correctly. Under such a rule, an individual school or library would not be eligible to receive internal connections support if it received similar support in the previous year. A one-year denial would allow internal connections discounts to reach schools that are economically disadvantaged, but perhaps not to the extent as the highest poverty entities, while still allowing the poorest schools and libraries to complete necessary work the following year. Such a rule change must be made applicable to all schools and library, however, since denying discounts only to those above a certain threshold would unfairly bar the poorest schools and libraries from a program intended to benefit them the most. It is also important that such a rule change be implemented well before the start of Year Six, so applicants can begin the long term planning that needs to accompany such a change.

Finally, as raised by a number of comments in reply to the 2001 NPRM, the Commission must also resolve the unintended effects of such a rule change, and ensure that the modified reimbursement mechanism does not inadvertently deny funding to eligible schools and libraries. For example, it is a common and encouraged practice for school districts to submit an E-Rate request to the SLD with a large group, or sometimes all, of their schools within a single discount band on one application. The proposed rule change

in the 2001 NPRM would deny internal connections funding to all of the schools listed on the application, even those specific sites that did not receive any E-Rate support. Another major unintended effect of this rule change surrounds the issue of maintenance, which schools and districts apply for under internal connections. The recurring maintenance on telecommunications equipment is an essential component of local technology plans, and is vital to protect the investment made by the FCC and local school districts. Denying funding to poor schools and libraries because of their responsible maintenance efforts or streamlined group applications are unintended effects of the proposed rule that the FCC must address before implementing any changes.

Use of Excess Service

We support the decision in the Alaska Order, and feel that the Commission should extend the benefits of excess telecommunications service to all areas, and not just those located remotely. Similar to those in remote areas, families in the inner-city and high-poverty communities often lack dial-up access to the Internet at home, and could reap substantial benefits from the excess services. Outside of the regular school hours, schools often remain open and are used as after-school and community centers and adult learning sites. These types of programs should be allowed to benefit from excess telecommunications service, if the excess use occurs outside of the school day, does not interfere with any school's regular academic activities, and is not used for a fee or to generate a profit. In the event that a program charges a fee for such activities, the program may not increase the fee it charges due to the availability of excess telecommunications service.

APPEALS

Appeals Procedure

The Council supports extending the window for filing appeals to 60 days. As stated earlier, urban school districts have the largest applications and the greatest number of project sites, and often find it difficult to file an appeal within the current 30-day limit. As stated in the Notice, under a new rule, applicants may still file before the end of the 60 days, and it is in their best interest to make a timely appeal. This rule change meets the goals of fairness, and by allowing applicants sufficient time to gather the necessary information and review the legitimacy of their appeals, may reduce the number of trivial cases submitted to the Administrator.

Funding of Successful Appeals

We support the proposals offered in Paragraphs 56 and 57 of the Notice, and feel that the following year's funds should be used to finance appeals once the current year's reserve and other sources have been depleted. We also support the funding of Priority One appeals first, as this is consistent with the manner that funds are distributed initially, and will ensure school or library telecommunications access is not disrupted. Finally, no rule change should be made that treats entities of similar eligibility differently merely because one was subject to an erroneous initial funding decision.

ENFORCEMENT TOOLS

Independent Audits

The Council would support the Commission's inquiry into alternatives to measure program integrity, but we strongly oppose the proposal that individual recipients must fund program audits on behalf of the FCC. It is inherently unfair to require recipients that received awards due to their poverty to investigate themselves, and further strain the budgets that E-Rate discounts were intended to ease.

The Commission should focus its intention to improve efficiency by reviewing the audit operation utilized by the E-Rate program to date. The original audits, many of which were performed in large urban school districts, suffered from a lack of organization and informed personnel. Auditors must be well versed in the details of the E-Rate and public administration, and shouldn't require the tutelage of local program administrators to understand the process. Further, improved information collection and a better reporting mechanism is needed to make the audits effective, and more useful to the auditors and the school or library.

The Notice's proposed "self-audit" raises a number of complex issues, including the criteria that will require such an audit, the appeal process for such an order, the restitution provided if a school or library receives a clean audit, and the additional monitoring and enforcement activities that are traditionally performed by the program's Administrator. None of the details have been discussed, and addressing these issues in further Notices and comments will not necessarily improve the audit process, or make it more efficient. E-Rate improvement, as well as the Commission's goals of greater efficiency and reduced fraud and abuse, will be attained by mending the current audit system, not by shifting the financial responsibility of the audit operation.

Prohibitions on Participation

The Council supports the Commission's proposal to bar service providers, consultants and other such participants from the E-Rate for willful or repeated failure to comply with program rules. We do feel that a different system of accountability should be established for applicants, however, so as not to punish students or library patrons for the wrongdoing of certain local administrators.

To reduce fraud, the Administrator should also maintain an updated database that lists banned offenders, as well as participants that have been identified as failing to comply with program rules. Schools and libraries should be able to access the requisite information to know if a new consultant or provider will put their E-Rate applications in jeopardy.

UNUSED FUNDS

Treatment of unused funds

The Council supports the second option for unused funds proposed in Paragraph 70 of the Notice, and believes that unused funds should be carried forward for subsequent E-Rate program years. The FCC has noted that there are not enough funds to meet all of the requests for discounts, and that there are educational needs that have not been met due to the funding cap. It is impossible to determine whether returning the funds to contributors would result in a reduction of cost to the consumers, as suggested by the Notice. There is, however, a clear certainty that carrying the funds forward will result in their expenditure for the E-Rate intended purpose: to provide universal service discounts to schools and libraries.

CONCLUSION

The Council of the Great City Schools shares the same goals as those stated by the Commission in this Notice, and believes that continued improvement of E-Rate operations is instrumental to the program's long-term success. In general, the Council's comments address improving the efficiency of the program, while also making sure the E-Rate maintains the fairness and flexibility that is necessary to manage the largest applications and projects. As the complexity and importance of technology continues to increase, the Council offers its support and assistance to the Commission to ensure that the nation's neediest urban school districts are given an opportunity to keep pace.

Respectfully Submitted,

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